

ORDINANCE NO. 2014-63

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 98 ENTITLED "ZONING" OF THE CODE OF ORDINANCES AND IN PARTICULAR AMENDING HIALEAH CODE § 98-2122 ENTITLED "ELECTRIC FENCES" CREATING AN EXCEPTION FROM THE PROHIBITION FOR PROPERTY IN DISTRICTS ZONED INDUSTRIAL (M); PROVIDING FOR HEIGHT, A PERIMETER NON-ELECTRICALLY CHARGED FENCE SURROUNDING THE ELECTRIC FENCE, WARNING SIGNS AND OTHER RESTRICTIONS APPLICABLE TO ELECTRIC FENCES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, there is an increased need for law enforcement officers patrolling property in districts zoned for industrial uses after hours;

WHEREAS, owners' interest in the protection of property against crime must be weighed against the interests of the public to be free from unnecessary hazards;

WHEREAS, an electrified fence, with proper safeguards, can be an effective deterrent against crime and help alleviate the need for additional law enforcement resources;

WHEREAS, it is in the best interest of the safety and general welfare of the community and residents of the City of Hialeah to allow electrified fences only on property zoned for industrial uses where the risk of crime and destruction of property is increased after-hours when business are unoccupied and industrial areas are generally isolated from mainstream traffic;

WHEREAS, this ordinance intends to establish minimum requirements designed to ensure electric fences are erected, operated and maintained in such a manner as to prevent or minimize the risks to unsuspecting passersby; and

WHEREAS, the Planning and Zoning Board recommended approval of this ordinance at its meeting of October 8, 2014.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: Chapter 98 entitled "Zoning" of the Code of Ordinances of the City of Hialeah, Florida, is hereby amended to read as follows:

Chapter 98

ZONING

* * *

ARTICLE V. ZONING DISTRICT REGULATIONS

* * *

DIVISION 8. FENCES, WALLS, SHRUBBERY

* * *

Sec. 98-2122. Electric fences.

(1) *Prohibition.* Except as otherwise provided for in this section, it shall be unlawful for any person to erect, construct or use in the city any fence, commonly known as electrified fences, which shall be electrically charged by electricity from any battery, power company or from any other power source whatsoever, ~~and commonly known as electrified fences.~~

(2) *Exception for Properties Zoned Industrial.* Fences powered by battery, discharging non-lethal, pulsating charge of electricity and meeting the requirements or limitations set forth in this subsection, shall be permitted on property zoned Industrial and developed for industrial use.

(a) *Non-electrified perimeter fence or wall required.* The electrified fence shall be completely surrounded by a non-electrified fence. The non-electrified fence shall be a total height of no less than eight (8) feet. The non-electrified fence can have no more than two (2) feet of barbed wire, which shall be erected above the fence in a horizontal linear form. The barbed wire shall not be allowed to be erected in a

coil, spiral or be otherwise wound around or above the non-electrified fence. Where the property on which the electrified fence is to be installed abuts property zoned for or used for residential uses, a non-electrified perimeter wall, no less than eight (8) feet in height, must be built meeting all requirements set forth in this subsection. Where a non-electrified perimeter wall is required, no barbed wire shall be allowed. The electrified fence shall not exceed the height of the perimeter fence or wall by more than two (2) feet and shall not exceed ten (10) feet in height as measured from the finished ground elevation to the top of the fence. There shall be a separation of at least twelve (12) inches between the non-electrified fence or wall and the electrified fence. The distance between the non-electrified fence or wall and the electrified fence can taper to accommodate physical conditions on the property and can taper to three (3) inches at the gates, only. The non-electrified fence or wall shall be located between the electrified fence and the property line and meet all other code requirements, including but not limited to, setbacks.

(b) *Required signs.* The presence of an electrified fence on the property shall be clearly marked with warning signs. The warning signs shall use a minimum letter size of two (2) inches, contain the international symbol for an electrical hazard and a message that reads: "Warning – Electric Fence in Use". The symbol and letter color must contrast with the sign background color. The warning signs shall be posted on the exterior surface of the perimeter fence or wall, such that they are visible to the public, and on the interior surface of the electrified wall, such that they are visible to any person within the area enclosed by the electrified fence, at least five (5) feet above finished grade and spaced no greater than sixty (60) feet apart throughout the entire length of the perimeter fence or wall.

(c) A building permit shall be required prior to installing an electrified fence. Electrified fences must meet all applicable International Electrotechnical Commission (IEC) Standards or Underwriters Laboratories Inc. (UL) Standards and life-safety codes not inconsistent with the requirements set forth in this Section. Electrified fences shall have a shut-off switch installed in a location acceptable to the Police and Fire Departments to de-energize the electrified fence.

Section 2: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty described above, the City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 4: Inclusion in Code.

The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Hialeah, as an addition or amendment thereto, and the sections of this ordinance shall be renumbered, as appropriate, to conform to the uniform numbering system of the Code.

Section 5: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

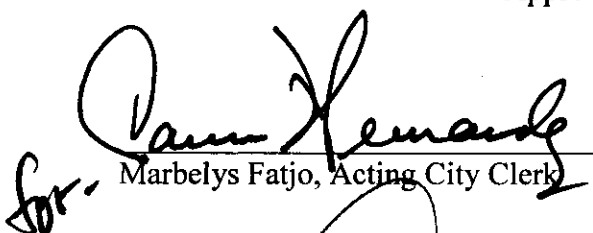
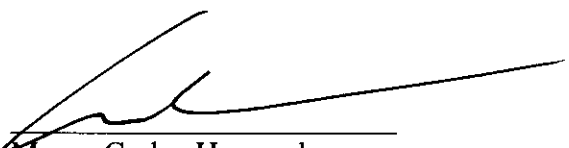
Section 6: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

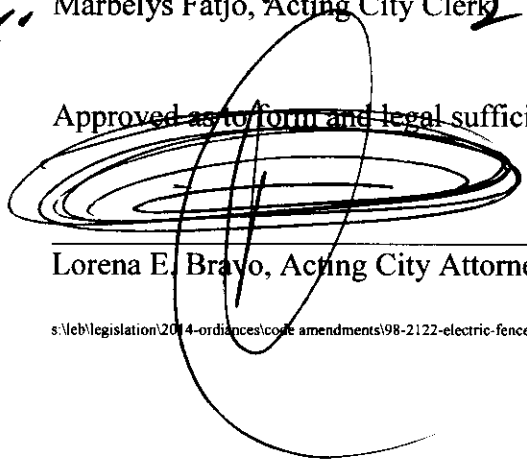
PASSED and ADOPTED this 25 day of November, 2014.


Isis Garcia Martinez
Council President

Attest:

Approved on this 05 day of December, 2014.
for - Marbelys Fatjo, Acting City Clerk
Mayor Carlos Hernandez

Approved as to form and legal sufficiency:


Lorena E. Brayo, Acting City Attorney

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Ordinance was adopted by a 6-0-1 vote with Council Members Caragol, Casáls-Muñoz, Cue-Fuente, Gonzalez, Hernandez, & Lozano voting "Yes", & Councilmember Garcia-Martinez, absent.

THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.